

AN ACT to amend Tennessee Code Annotated, Titles 4 and 63, relative to the registration of hypnotherapists.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, is amended by adding Sections 2 through 35 as a new chapter thereto.

SECTION 2. This act shall be known and may be cited as the "Hypnotherapist Registration Act".

SECTION 3. The purpose of this act is to set standards for the qualifications and experience for those who seek to register as practitioners of hypnotherapy, to uphold standards of professional performance for those registered to practice hypnotherapy in the state of Tennessee, and to protect the public from unprofessional conduct by persons registered to practice hypnotherapy.

SECTION 4. As used in this act:

- (1) "Department" means the department of health;
- (2) "Director" means the director of health-related boards;
- (3) "General Hypnotherapy" means a professional relationship between a registered hypnotherapist and a client in which the registered hypnotherapist provides assistance to the client in matters related to the recreational, vocational, avocational, educational, stress management or self-improvement goals of the client provided such self-improvement goals are not the focus of a medical or mental health disorder;
- (4) "Hypnotherapy" means the induction of a hypnotic state in a client to increase motivation or alter behavioral patterns. Hypnotherapy includes consultation with a

client to determine the nature of the client's problem, assessment of a client to determine such client's suitability for hypnotherapy, preparation of a client to enter a hypnotic state, explanation to a client of the nature of the hypnotic state, instruction of a client in self- hypnosis conditioning, testing a client to determine the degree of physical and emotional suggestibility, induction of the hypnotic state in a client using individualized methods and techniques based on interpretation of test results and analysis of problems, and discussion with a client regarding the results of hypnosis;

(5) "Independent practice" means the provision to the public of general hypnotherapy or referred hypnotherapy for remuneration by a person who meets all requirements for the practice of hypnotherapy and who has received registration for the practice of hypnotherapy;

(6) "National professional organization" means an organization that is dedicated to providing training, continuing education and performance testing in hypnotherapy that is incorporated in any state of the United States of America, can document active membership in at least fifteen (15) states and has training requirements that are at least sufficient for registration as a registered hypnotherapist in Tennessee;

(7) "Person" means an individual, association, partnership, or corporation;

(8) "Psychotherapy" means a relationship for remuneration between a therapist and a client in which the therapist renders assistance to the client for the purpose of diagnosing, treating, curing, or improving mental health disorders;

(9) "Qualified supervisor" means any person who is a registered hypnotherapist who meets the qualifications for independent practice of hypnotherapy and has been in practice as a hypnotherapist for at least three (3) years;

(10) "Referred hypnotherapy" means a professional relationship between a registered hypnotherapist and a client in which the registered hypnotherapist either provides assistance to the client in:

(A) matters related to a medical condition diagnosed by a licensed medical doctor, licensed doctor of dental medicine or a licensed doctor of chiropractic medicine who has specifically referred the client to the registered hypnotherapist in writing or by prescription; or,

(B) Provides assistance to the client in matters related to a mental health condition diagnosed by a licensed mental health professional who has specifically referred the client to the registered hypnotherapist by written referral;

(11) "Registered hypnotherapist" means any person who has registered in accordance with this act for the practice of hypnotherapy;

(12) "Registration" means that which is required to practice hypnotherapy as defined in this act;

(13) "Supervised practice" means the provision of hypnotherapy to a client under the guidance, critique and review of a qualified supervisor; and

(14) "Supervision" means review of aspects of the therapeutic relationship between a hypnotherapist and client or clients in a face-to-face meeting for the purpose of improving the therapeutic skills of the person under supervision.

SECTION 5.

(a) Persons holding a valid registration as a registered hypnotherapist may practice general hypnotherapy or referred hypnotherapy in independent practice, or as part of an association, partnership or corporation.

(b) Persons who are in training to meet the requirements for registration as registered hypnotherapists may practice without registration provided such practice is supervised practice with a person who is a qualified supervisor, and provided such persons in training hold themselves out to the public using the term "intern", or some other designation of trainee status.

SECTION 6.

(a) This act does not prohibit persons legally regulated in Tennessee by any other act from engaging in the practice for which they are authorized so long as they do not represent themselves by the title of registered hypnotherapist. Nothing in this act shall be construed to limit the activities and services provided by a person engaging in the practice of hypnotherapy provided the regulatory act governing such persons contains a scope of practice which might reasonably be interpreted to include the use of hypnotherapy.

(b) This act does not prohibit the practice of nonregulated professions whose practitioners are engaged in the delivery of human services as long as these practitioners neither represent themselves as nor use the title of registered hypnotherapists, nor provide hypnotherapy as defined in Section 4(4).

(c) Nothing in this act shall be construed to limit the activities and services of a person or intern in hypnotherapy seeking to fulfill the educational or supervision requirements in order to qualify for registration under this act provided that the activities and services of a person or intern are supervised as specified in this act.

(d) Corporations, partnerships, and associations may employ persons seeking to fulfill the educational or supervision requirements for registration if the activities and services rendered by that person constitute a part of the trainee's supervised course of study or required professional supervision.

(e) Nothing in this section shall prohibit a corporation, partnership, or association from contracting with a licensed or registered health care professional to provide services that are similar to those provided by registered hypnotherapists.

(f) Nothing in this act shall prevent the employment, by a registered hypnotherapist, individual, association, partnership or corporation furnishing hypnotherapy for remuneration, of persons not registered under the act to perform services in various capacities as needed, provided that such persons are not in any manner held out to the public as rendering hypnotherapy as defined in Section 4(4).

(g) Nothing contained in this act shall require any hospital, clinic, home health agency, hospice, or other entity that provides health care services to employ or to contract with a registered hypnotherapist to perform any of the activities defined in Section 4(4).

(h) Nothing in this act shall be construed to limit the services of a person, not registered under the provisions of this act, in the employ of a state, county, or municipal agency or other political subdivision or not-for-profit corporation providing human services if:

- (1) the services are a part of the duties of the person's salaried position;
- (2) the services are performed solely on behalf of the person's employer, and
- (3) such persons are not in any manner held out to the public as registered hypnotherapists.

(i) Nothing in this act shall prohibit individuals not registered under this act who work in self-help groups or programs or not-for-profit organizations from providing services in those groups, programs, or organizations, provided that such persons are not in any manner held out to the public as registered hypnotherapists.

SECTION 7.

(a) Unless exempted under Section 5 of this act, no person shall, without holding valid registration as a registered hypnotherapist:

- (1) in any manner hold him or herself out to the public as a registered hypnotherapist under this act;
- (2) attach the title "registered hypnotherapist"; or
- (3) offer to render or render to individuals, corporations, or the public, hypnotherapy as defined in Section 4(4).

(b) Nothing in this act shall be construed as permitting persons registered as registered hypnotherapists to engage in any manner in the practice of medicine.

(c) When, in the course of providing hypnotherapy to any person, a registered hypnotherapist registered under the provisions of this act finds indication of a disease or condition that in such registered hypnotherapist's judgment requires professional service outside of the hypnotherapist's scope of practice, the registered hypnotherapist shall refer that person to a physician or another appropriate health care provider.

(d) All persons registered as registered hypnotherapists shall give to each client who seeks to receive hypnotherapy from that registered hypnotherapist a full and accurate written disclosure statement of the type and nature of education and training possessed by that registered hypnotherapist. The information contained in this disclosure statement shall contain, but not be limited to, academic degrees earned by the registered hypnotherapist and the nature of their accreditation, training programs in hypnotherapy completed by the registered hypnotherapist, including the number of hours of instruction and duration of training, and national certifications in hypnotherapy held by the registered hypnotherapist. The disclosure statement shall also state that neither psychotherapy nor the diagnosis of mental, dental or medical disease is a part of hypnotherapy and that registration as a registered hypnotherapist does not authorize a person to practice psychotherapy or diagnosis.

(e) No person registered as a registered hypnotherapist shall publicly advertise their services in any way that would cause a reasonable person to conclude that the person registered as a registered hypnotherapist is also a doctor of medicine or of psychology, unless such person is licensed to practice medicine or psychology.

SECTION 8. Subject to the provisions of this act, the department shall:

(1) Review applications for registration as registered hypnotherapists from persons seeking such registration to ascertain the fitness and qualifications of such persons for practicing hypnotherapy;

(2) Conduct hearings on proceedings to refuse to issue, renew or to revoke registration or suspend, place on probation, censure, or reprimand persons registered under

this act, and to refuse to issue, renew or to revoke registration or suspend, place on probation, censure, or reprimand persons registered under this act;

(3) Pursuant to title 4, chapter 5, promulgate rules and regulations required for the administration of this act and issue appropriate certificates of registration to persons registered under this act; and

(4) Maintain rosters of the names and addresses of all registered hypnotherapists, and all persons whose registrations have been suspended, revoked, or denied renewal for cause within the previous calendar year. These rosters shall be available upon written request and payment of the fee as set by the department.

SECTION 9. Applications for registration as a registered hypnotherapist shall be made to the department on forms prescribed by the department and accompanied by the required fee. The required fee is not refundable. All applications shall contain such information that, in the judgment of the department, will enable the department to determine the qualifications of the applicant for registration to practice as a registered hypnotherapist.

SECTION 10. A person is qualified to be registered as a registered hypnotherapist, and the department shall issue a registration authorizing the practice of hypnotherapy to an applicant who:

(1) has applied in writing on the prescribed form and has paid the required fee;

(2) is at least twenty-one (21) years of age and has not engaged in conduct or activities which would constitute grounds for discipline under this act;

(3) documents that such applicant has received a minimum of one hundred (100) hours of personal instruction in hypnosis or hypnotherapy that is either sanctioned by a national professional organization, or is from any school teaching hypnotherapy that is accredited by an agency authorized by the United States Department of Education or is otherwise licensed, registered, approved or sanctioned by any state of the United States, provided such organization or school teaches a curriculum that includes:

- (A) instruction in the history of hypnosis;
- (B) techniques of client assessment;
- (C) suggestibility testing;
- (D) induction and dehypnotization techniques;
- (E) deepening techniques;
- (F) principles of post-hypnotic suggestion;
- (G) contraindications for hypnosis;
- (H) treatment planning;
- (I) self-hypnosis training;
- (J) administration and record-keeping,
- (K) law and ethics; and
- (L) an orientation to the limits of practice specified in this act sufficient

to allow a reasonable person to make an informed decision if the client's problem reasonably falls within the scope of hypnotherapy.

(4) has completed a minimum of two hundred (200) hours of supervised practice of hypnotherapy with a person who is a qualified supervisor as defined by this act, with a ratio of not less than one (1) hour of personal supervision for every fifteen (15) hours of supervised practice.

(5) for each year after the initial year of registration, documents fifteen (15) hours of continuing education in hypnosis or hypnotherapy during the previous year.

SECTION 11.

(a) The expiration date and renewal period for each registration issued under this act shall be set by the department. Registered hypnotherapists may renew their registration during the sixty (60) day period preceding its expiration date by paying the required fee and demonstrating compliance with any continuing education requirements.

(b) Any person who has permitted a registration to expire or who has a registration on inactive status may have it restored by submitting an application to the department and filing proof of fitness to have the registration restored, including, if appropriate, evidence which is satisfactory to the department certifying the practice of hypnotherapy in another jurisdiction, and by paying the required fee.

(c) If a person has not maintained an active practice in another jurisdiction which is satisfactory to the department, the department shall determine the person's fitness to resume active status. The department may also require the person to complete a specified period of evaluated hypnotherapy work experience.

(d) Any person whose registration expired while on active duty with the armed forces of the United States, while called into service or training with the national guard or in training or education under the supervision of the United States government before induction into the military service may have such person's registration restored without paying any renewal fees if, within two (2) years after the completion of such service, training, or education, except under conditions other than honorable, the department is furnished with satisfactory evidence that the person was so engaged and that such service, training, or education was so completed.

(e) A registration to practice hypnotherapy shall not be denied any applicant because of the applicant's race, religion, creed, national origin, political beliefs or activities, age, sex, sexual orientation, or physical impairment.

SECTION 12.

(a) For three (3) years after the effective date of this act the department shall, on application, issue a registration to any person for the practice of hypnotherapy who has not completed the training specified in Section 10(c), but who can document the maintenance of a practice of hypnotherapy for remuneration for a period of three (3) years. Persons receiving

initial registration under this section shall not be required to complete further training in hypnotherapy beyond the annual continuing education in hypnotherapy required by this act.

(b) For three (3) years after the effective date of this act the department shall, on application, issue a registration to any person for the practice of hypnotherapy who has not completed any internship, trainee or supervision period specified in Section 10(d) but who otherwise meets the requirements of Section 10(c) or who can document using tax returns or other records the maintenance of a practice of hypnotherapy for meaningful remuneration for a period of three (3) years. Persons receiving initial registration under the provision of this section shall not be required to complete any internship, trainee or supervision period for renewal of registration under this act.

SECTION 13. The fees imposed under this act are as follows and are not refundable:

(1) The initial fee for application for registration as a registered hypnotherapist is one hundred fifty dollars (\$150);

(2) The initial fee for renewal of a registration is thirty dollars (\$30) per year;

(3) The initial fee for the reinstatement of a registration which has been expired for less than five (5) years is twenty dollars (\$20), plus payment of all unpaid fees for every year that has lapsed;

(4) The initial fee for the restoration of a registration which has expired for more than five (5) years is two hundred dollars (\$200);

(5) The initial fee for the issuance of a duplicate registration, the issuance of a replacement for a registration that has been lost or destroyed, or the issuance of a registration with a change of name or address, other than during the renewal period is twenty dollars (\$20). No fee is required for name and address changes on department records when no duplicate registration is issued;

(6) The initial fee for the certification of a registered hypnotherapist's record is two hundred dollars (\$200);

(7) The initial fee for application for registration by a person registered or licensed to practice hypnotherapy under the laws of another jurisdiction is two hundred dollars (\$200);

(8) The fee for copies of a registration shall be the actual cost of producing such copies;

(9) The fee for a roster of persons registered as registered hypnotherapists shall be the actual cost of producing such a roster;

(10) Fees for the services provided by the department specified in this act may, from time to time, be adjusted by the department so that revenue collected is sufficient to cover the expenses incurred by the department for registering qualified persons who have applied for registration as registered hypnotherapists. For one (1) fiscal year after the enactment of this act, ninety percent (90%) of all the fees collected under this act shall be deposited into the registered hypnotherapis-dedicated fund, which is created as a separate fund in the general fund, and ten percent (10%) shall be deposited into the general fund. In all future years all of the fees collected under this act shall be deposited into the registered hypnotherapist-dedicated fund. The monies deposited into the registered hypnotherapist-dedicated fund shall be appropriated to the department for expenses of the department in the administration of this act. Monies in the registered hypnotherapist-dedicated fund may be invested and reinvested, with all earning received from investments to be deposited into the fund and used for the same purpose as fees deposited in that fund.

SECTION 14. Any person who issues or delivers a check or other negotiable instrument to the department which is not honored on two (2) occasions by the financial institution upon which it is drawn because of insufficient funds on account, the account is closed, or a stop payment has been placed on the account shall pay to the department in addition to the amount owing upon such check or other negotiable instrument, a fee of fifty

dollars (\$50). If the check or other instrument was issued or delivered in payment of a renewal fee and the person whose registration as a registered hypnotherapist has lapsed continues to practice without paying the renewal fee and the fee required under this section, an additional penalty of one hundred dollars (\$100) shall be imposed for practicing without a current registration. The fees and penalties imposed by this section are in addition to any other penalty for practicing hypnotherapy without a registration as a registered hypnotherapist. The department shall notify the person whose registration has lapsed that the person is engaged in the unauthorized practice of hypnotherapy and the amount due the department, which shall include the lapsed renewal fee and the other required fees. If, after the expiration of thirty (30) days from the date of the notification, the person whose registration as a registered hypnotherapist has lapsed seeks a current registration, the person shall thereafter apply to the department for reinstatement of registration and shall pay all fees due to the department. The department may establish a fee for the processing of an application for reinstatement of a registration that allows the department to pay all costs and expenses incident to the processing of this application. However, the director may waive or reduce the fees in individual cases where the director finds they would be unnecessarily burdensome.

SECTION 15. The department may issue a registration for the practice of hypnotherapy to persons who are already registered or licensed to practice hypnotherapy under the laws of another state, if the requirements for registration or licensing in that state are, on the date of licensing or registration, substantially equal to the requirements of this act. Such applicant shall pay all of the required fees.

SECTION 16.

(a) No registered hypnotherapist shall disclose any information acquired from persons consulting such registered hypnotherapist in the capacity as a registered hypnotherapist, except that which may be voluntarily disclosed under the following circumstances:

(1) In the course of formally reporting, conferring, or consulting with administrative superiors, colleagues, or consultants who share professional responsibilities, in which instance all recipients of the information are similarly bound to regard the communication as privileged;

(2) With the written consent of the person who provided the information;

(3) In the case of death or disability, with the written consent of a personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health or physical condition;

(4) When a communication reveals the intended commission of a crime or harmful act and such disclosure is judged necessary by the registered hypnotherapist to protect any person from a clear, imminent risk of serious mental or physical harm of injury, or to forestall a serious threat to the public safety; or

(5) When the person waives this privilege by bringing any public charges against a registered hypnotherapist.

(b) When the person is a minor and the information acquired by the registered hypnotherapist indicates the minor was the victim or subject of a crime, the registered hypnotherapist may be required to testify in any judicial proceedings in which the commission of that crime is the subject of inquiry when, after in camera review of the information that the registered hypnotherapist acquired, the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice, the need to protect the public safety or the need to protect the minor.

(c) Any person having access to records, who participates in providing hypnotherapy or supervised by a registered hypnotherapist, is similarly bound to regard all information and communications as privileged in accord with this Section.

(d) Nothing in this act shall be construed to prohibit a registered hypnotherapist from voluntarily testifying in court hearings concerning matters of adoption, child abuse, child neglect or other matters pertaining to children.

SECTION 17.

(a) The department may refuse to issue, renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the department deems appropriate, including the issuance of civil penalties not to exceed one thousand dollars (\$1,000) for each violation, with regard to any registration for any one (1) or more of the following:

- (1) Material misstatement in furnishing information to the department or to any other state agency;
- (2) Violations or negligent or intentional disregard of this act, or any of its rules and regulations;
- (3) Conviction of any crime under the laws of the United States or any state or territory thereof that is a felony, or that is a misdemeanor, an essential element of which is dishonesty, or of any crime which is directly related to the practice of hypnotherapy;
- (4) Making any misrepresentation for the purpose of obtaining a registration as a registered hypnotherapist;
- (5) Incompetence or gross negligence in the rendering of hypnotherapy;
- (6) Malpractice
- (7) Advising or assisting another person in violating any provision of this act or any of its rules;
- (8) Failing to provide information within sixty (60) days in response to a written request made by the department;

(9) Engaging in dishonorable, unethical, or conduct likely to deceive, defraud, or harm the public and violating any rules of conduct established by the department as part of a reasonable effort to regulate the practice of hypnotherapy;

(10) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug which results in inability to practice hypnotherapy with reasonable skill, judgment, or safety;

(11) Discipline by another jurisdiction, if at least one (1) of the grounds is the same or substantially equivalent to those set forth in this Section;

(12) Discipline or directly giving to or receiving from any person, firm, corporation, partnership or association any fee, commission, rebate or other form of compensation for any service not actually rendered;

(13) A finding by the department that the person registered as a registered hypnotherapist, after having had the registration placed on probationary status, has violated the terms of probation;

(14) Abandonment of a client;

(15) Willfully filing false reports relating to the practice of a registered hypnotherapist, including but not limited to false records filed with federal or state agencies or departments;

(16) Willfully failing to report an instance of suspected child abuse or neglect;

(17) Upon proof by clear and convincing evidence that the registered hypnotherapist has caused a child to be an abused child or neglected child;

(18) Physical or mental disability, including deterioration through the aging process or loss of abilities and skills which results in the inability to practice hypnotherapy with reasonable judgment, skill or safety;

(19) Solicitation of professional services by using false or misleading advertising; or

(20) Failure to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by the Tennessee department of revenue or the Internal Revenue Service or any successor agency.

(c) The determination by a court that a person registered for the practice of registered hypnotherapy is subject to involuntary admission or judicial admission shall result in an automatic suspension of registration. The suspension will end upon a finding by a court that the person registered as a registered hypnotherapist is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging the patient, and a decision by the department that the registered hypnotherapist be allowed to resume the practice of hypnotherapy.

SECTION 18.

(a) If any person violates the provisions of this act, the director may, through the office of attorney general and reporter, petition for an order enjoining the violation or for an order enforcing compliance with this act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this section are in addition to all other remedies and penalties provided by this act.

(b) If persons hold themselves out as being a registered hypnotherapist under this act and are not registered for the practice of hypnotherapy, then any registered hypnotherapist, interested party, or any person injured thereby may petition for relief as provided in subsection (a).

(c) Whenever a person violates any provision of this act, the department may issue an ruling to show cause why an order to cease and desist should not be entered against that person. The ruling shall clearly set forth the grounds relied upon by the department and shall allow at least seven (7) days from the date of the ruling to file an answer satisfactory to the department. Failure to answer to the satisfaction of the department shall cause an order to cease and desist to be issued.

SECTION 19. The department may investigate the actions of any applicant or any person holding or claiming to hold a registration to practice hypnotherapy. The department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Section 18, at least ten (10) days before the date set for the hearing, notify, in writing, the applicant for, or holder of, a registration to practice hypnotherapy of the nature of the charges and that a hearing will be held on the date designated. The written notice may be served by personal delivery or certified or registered mail to the applicant or person registered to practice hypnotherapy at the address of the last notification to the department. The department shall also direct the person registered as a registered hypnotherapist to file a written answer with the department, under oath, within twenty (20) days after the service of the notice, and inform the person that if the person fails to file an answer, the department may take additional disciplinary action, including the issuance of fines not to exceed one thousand dollars (\$1,000) for each violation, as the department may deem necessary. At the time and place fixed in the notice, representatives of the department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence, and argument as may be pertinent to the charges or to their defense. The department may continue the hearing from time to time.

SECTION 20. The department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue or to renew a registration to practice hypnotherapy. The notice of hearing, complaint, all other documents in

the nature of pleadings, written motions filed in the proceedings, the transcript of testimony, and orders of the department shall be in the record of such proceeding.

SECTION 21. The department has the power to subpoena and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of Tennessee. The director or the designated hearing officer has the power to administer oaths to witnesses at any hearing which the department is authorized to conduct, and any other oaths authorized in any act administered by the department.

SECTION 22. Any court, upon application of the department, designated hearing officer, or the applicant or licensee against whom proceedings under Section 18 of this act are pending, may enter an order requiring the attendance of witnesses and their testimony and the production of documents, papers, files, recordings, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

SECTION 23. At the conclusion of the hearing, the designated hearing officer shall present to the director a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether the person registered to practice hypnotherapy violated this act or failed to comply with the conditions required in this act. The designated hearing officer shall the nature of the violation or failure to comply, and shall make recommendations to the director. The report of findings of fact, conclusions of law, and recommendations of the hearing officer shall be the basis for the department's order for refusal or for the granting of the registration to practice hypnotherapy. If the director disagrees with the recommendations of the hearing officer, the director may issue an order in contravention of the recommendations of the hearing officer. The director shall provide a written report to the designated hearing officer on any disagreement and shall specify the reasons for the action in the final order. The finding is not admissible in evidence against the person in a criminal

prosecution brought for the violation of this act, but the hearing and findings are not a bar to a criminal prosecution brought for the violation of this act.

SECTION 24. At the conclusion of the hearing, a copy of the designated hearing officer's report shall be served upon the applicant or person registered to practice hypnotherapy, either personally or as provided in this act for the service of the notice of hearing. Within twenty (20) days after such service, the applicant or person registered to practice hypnotherapy may present to the department a motion in writing for a rehearing which shall specify the particular grounds for rehearing. If no motion for a rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon such denial, the director may enter an order in accordance with recommendations of the hearing officer, except as provided in Section 25. If the applicant or person registered to practice hypnotherapy requests and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall begin upon the delivery of the transcript to the applicant or person registered to practice hypnotherapy.

SECTION 25. Whenever the director believes justice has not been done in the revocation, suspension or refusal to issue to issue or renew a registration to practice hypnotherapy, the director may order a rehearing.

SECTION 26. The director has the authority to appoint attorney licensed to practice law in the state of Tennessee to serve as the hearing officer in any action for refusal to issue or renew a registration to practice hypnotherapy. The hearing officer has full authority to conduct the hearing and may appoint an advisory committee of persons who practice hypnotherapy for remuneration and who are registered to practice hypnotherapy. The hearing officer shall report the findings of fact, conclusions of law, and recommendations to the director. If the director disagrees with the recommendation of the hearing officer, the director may issue an order in contravention of the recommendation. The director shall promptly provide a written explanation to the hearing officer on any such disagreement.

SECTION 27. An order or certified copy thereof, over the seal of the department and purporting to be signed by the director, is prima facie proof that the signature is the genuine signature of the director, and that the director is duly appointed and qualified.

SECTION 28. At any time after the suspension or revocation of any registration to practice hypnotherapy, the department, upon the written recommendation of the director, may restore it to the person registered, unless, after an investigation and hearing, the director determines that restoration is not in the public interest.

SECTION 29. Upon the revocation or suspension of a registration to practice hypnotherapy, the person registered shall immediately surrender such person's registration to the department. If the person so registered fails to surrender such registration, the department has the right to seize the registration.

SECTION 30. The director may summarily suspend the registration to practice hypnotherapy without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 18, if the director finds that evidence indicates that the continuation of practice by the registered hypnotherapist would constitute an imminent danger to the public. In the event that the director summarily suspends the registration of an individual without a hearing, a hearing must be held within thirty (30) days after the suspension has occurred.

SECTION 31.

(a) All final administrative orders of the department are subject to judicial review pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The term "administrative order" is as defined in Section 4-5-102.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Tennessee, the venue shall be in Davidson County.

SECTION 32. The department shall not be required to certify any record to the

court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding, unless there is filed in the court, with the complaint, a receipt from the department acknowledging payment of the costs of furnishing and certifying the record. Failure on the part of the plaintiff to file the receipt in court is grounds for dismissal of the action.

SECTION 33. Unless otherwise specified, any person found to have violated Sections 7(g), 16(a), and 17(a)(15) of this act is guilty of a Class A misdemeanor.

SECTION 34. Tennessee Code Annotated, Section 4-3-1011, is amended by adding a new subsection thereto, as follows:

(d) Fees for the services provided by the department specified in this act may, from time to time, be adjusted by the department to so that revenue collected is sufficient to cover the expenses incurred by the department for registering qualified persons who have applied for registration as registered hypnotherapists. For a period of one (1) fiscal year after the enactment of this act, ninety percent (90%) of all the fees collected under this act shall be deposited into the registered hypnotherapist-dedicated fund, which is created as a separate fund in the state treasury, and ten percent (10%) shall be deposited into the general revenue fund. In future years all of the fees collected under this act shall be deposited into the registered hypnotherapist-dedicated fund. The monies deposited into the registered hypnotherapist-dedicated fund shall be appropriated to the department for expenses of the department in the administration of this act. Monies in the registered hypnotherapist dedicated fund may be invested and reinvested, with all earnings received from investments to be deposited into that fund and used for the same purpose as fees deposited in that fund.

SECTION 35. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 1996, the public welfare requiring it.

- AN ACT to amend Tennessee Code Annotated, Titles 4 and 63, relative to the registration of hypnotherapists.
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